

Baruch C. Cohen, Esq. (SBN 159455)
LAW OFFICE OF BARUCH C. COHEN
A Professional Law Corporation
4929 Wilshire Boulevard, Suite 940
Los Angeles, California 90010
(323) 937-4501 Fax (323) 937-4503
e-mail: baruchcohen@baruchcohenesq.com

Vincent James DeSimone, Esq. (SBN 119668)
V. JAMES DESIMONE LAW
13160 Mindanao Way, Suite 280
Marina del Rey, California 90292
(310) 693-5561
e-mail: vjdesimone@gmail.com

Kaveh Navab, Esq. (SBN 280235)
NAVAB LAW, APC
13160 Mindanao Way, Suite 280
Marina del Rey, California 90292
(310) 826-1002
e-mail: Navablaw@gmail.com

Attorneys for Creditor DANIEL GARZA

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION**

In re
MARIO CARDONA,
Debtor.

DANIEL GARZA

Plaintiff

vs.

MARIO G. CARDONA

Defendant

Case No: 2:17-bk-22804-WB

Adversary No.: 2:18-ap-01381-WB

Before the Honorable Julia W. Brand

Chapter 7

**PLAINTIFF’S OPPOSITION TO
DEFENDANT’S MOTION TO STRIKE
DECLARATION OF KAVEH NAVAB AS TO
THE ADMISSION OF VIDEO TRANSCRIPT
IN SUPPORT OF PLAINTIFF’S REPLY TO
DEFENDANT’S RESPONSES TO MOTION
FOR SUMMARY JUDGMENT**

Date: February 11, 2020

Time: 2:00 pm

Crtrm: 1375

Place: 255 E. Temple St, Los Angeles

**TO THE HONORABLE COURT, ALL PARTIES, AND THEIR RESPECTIVE
COUNSEL OF RECORD:**

PLEASE TAKE NOTICE Plaintiff, DANIEL GARZA (hereinafter “Plaintiff”), by and through his attorney of record, hereby opposes Defendant, MARIO G. CARDONA’s (hereinafter “Defendant”) Motion to Strike Declaration of Kaveh Navab as to the Admission of Video Transcript in Support of Plaintiff’s Reply to Defendant’s Response to Motion for Summary Judgment (Dkt. 61).

Defendant filed a motion to strike the certified transcript of the video recording of assault and use for excessive force by Defendant against Plaintiff. Defendant’s motion is made pursuant to LBR 9013-1 which states in relevant part that, declarations or other evidence attached to the reply memorandum must respond directly to the opposition documents. Defendants motion to strike must be denied.

Here, the certified transcript is highly relevant as it responding to the Declaration of Mario Cardona (Dkt. 48) in which Cardona attempts to relegate the facts of the underlying United States District Court (“USDC”) verdict. The transcript of the video is the best evidence in rebuttal to Cardona’s declaration as it demonstrates that Cardona was acting in a willful and malicious manner toward Plaintiff when he used unreasonable force against Plaintiff, including placing him in a painful wrist lock when he was subdued and not resisting. This is evidenced through the transcript by the intentional nature of Cardona’s actions and when Cardona is asked by the passerby Daniel Laughlin (who testified in the USDC) that what he was doing “looks like it hurts” to which Cardona responded “it does!”. As such, the certified transcript of the video taken and used during the USDC trial is highly relevant and admissible as it responds directly to evidence raised by Defendant in his Reply to Plaintiff’s Motion for Summary Judgment. The Court should deny Defendant’s motion to strike.

DATE: February 10, 2020

LAW OFFICE OF BARUCH C. COHEN, APLC

/s/ Baruch C. Cohen

Baruch C. Cohen, Esq.

Attorneys for Creditor DANIEL GARZA

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

4929 Wilshire Boulevard, Suite 940, Los Angeles CA 90010

A true and correct copy of the foregoing document entitled **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE DECLARATION OF KAVEH NAVAB AS TO THE ADMISSION OF VIDEO TRANSCRIPT IN SUPPORT OF PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSES TO MOTION FOR SUMMARY JUDGMENT** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On February 10, 2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Nancy K Curry (TR)	TrusteeECFMail@gmail.com
Marcus G Tiggs (DF)	mtiggs@lawbwl.com, bribwl@gmail.com
United States Trustee (LA)	ustpregion16.la.ecf@usdoj.gov
Baruch C Cohen (PL)	bcc@BaruchCohenEsq.com, paralegal@baruchcohenesq.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **February 10, 2020**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **February 10, 2020**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Julia W. Brand, Roybal Federal Bldg. & Courthouse, 255 E. Temple St, Ste 1382, Los Angeles CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

February 10, 2020

Date

Baruch C. Cohen

Printed Name

/s/ Baruch C. Cohen

Signature